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NOT RECORDED

ATTORNEY FOR PLAINTIFFS

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

MICHAEL KONDASH,  
APRIL KONDASH,  
GARLAND ARGO,  
CINDY ARGO,  
KEVIN BREN,  
WILLIAM COX,  
GRANTDCDGE,  
SUSIE DODGE,  
DANNIS DANKENBRING,  
JUDY DANKENBRING,  
JOHN FORSGREN,  
MATT MEYERS,  
BRIAN LARSON,  
GARY PALUMBO,  
JOSE PEREZ,  
DAN ROBINSON,  
THOMAS SIEFKE,  
STEVE TIPTON,  
ROBERT WALKER,  
ROBERT WRIGHT,

Plaintiffs,

CITY OF GRESHAM,  
OFFICER HOGAN, personally,  
OFFICER BLAKE, personally

Defendants.

Case No. CV **CV04 150**

COMPLAINT FOR UNREASONABLE  
SEARCH AND SEIZURE (4<sup>TH</sup> AM.)  
FOURTH AM. VIOLATION (42 USC 1983),  
EXCESSIVE FORCE (42 USC 1983),  
NEGLIGENCE, MALICIOUS PROSECUTION

(JURY TRIAL REQUESTED)

1.

This Court has jurisdiction pursuant to 28 U.S.C. Sec. 1331, 28 U.S.C. Sec. 1343, and 28 U.S.C. Sec. 1367 (a).

2.

The Plaintiffs are residents of Oregon and Washington.

3.

The defendant City of Gresham is a local government agency. The Defendants Hogan and Blake are employees of the City of Gresham.

#### COMMON FACTUAL ALLEGATIONS

4.

Plaintiffs Michael Kondash et al. all were followed, detained, arrested assaulted with deadly weapons, verbally threatened with deadly force and wrongfully charged with offenses and/or violations by the above-named defendants on about June 7, 2003 near SE 185th and Stark .

5.

Plaintiffs Bren and Siefke were kicked in the head and chest.

Plaintiffs Dodge and Dankenbring suffered tow charges approximating \$400.

6.

As a proximate result of the above-described mass arrest, all plaintiffs suffered loss of their freedom, anguish, humiliation, frustration, denial of their rights to come and go as they pleased, and compelled to lay on the ground for at least thirty and sometimes more than sixty-minutes, often in the hot sun and on the pavement or grass in mid-ninety degree temperature, all to their non-economic damage.

7.

All charges against all defendants were ultimately dismissed.

8.

Plaintiffs gave timely notice of tort claim on December 3, 2003.

AS AND FOR A FIRST CAUSE OF ACTION  
MALICIOUS PROSECUTION

Plaintiff realleges all of the aforementioned paragraphs 1-8 as though fully set forth herein.

9.

The above named defendants improperly charged Plaintiffs with violations and/or offenses with the malice with intent to deter plaintiff for seeking redress for the defendants' misconduct.

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AS AND FOR A SECOND CAUSE OF ACTION  
NEGLIGENCE

Plaintiff realleges all of the aforementioned paragraphs 1-8 as though fully set forth herein.

10.

The wrongful detention, arrest, assault with deadly weapons and charging of plaintiffs by defendants City of Gresham and above-named defendants were the proximate result of the City of Gresham's failure to properly, hire, train and supervise its employee defendants Hogan and Blake.

11.

The wrongful detention, arrest, assault with deadly weapons and charging of plaintiffs by defendants City of Gresham and above-named defendants were the proximate result of the employee defendants Hogan and Blake's negligence in failing to treat plaintiffs in a safe and legal manner.

AS AND FOR A THIRD CAUSE OF ACTION  
FOURTH AMENDMENT VIOLATION

Plaintiff realleges all of the aforementioned paragraphs 1-8 as though fully set forth herein.

12.

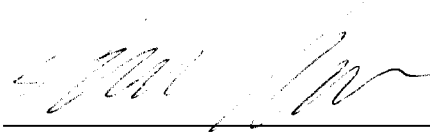
The wrongful detention, arrest and, assault with deadly weapons and charging of plaintiffs by defendants City of Gresham and above-named defendants violated plaintiffs' right to be free of Unreasonable Search and Seizure and Excessive Force under the Fourth Amendment.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for the following relief :

1. Entry of a judgment pursuant to 28 U.S.C. Sec. 2201, declaring that defendants, by their actions, have violated plaintiff's constitutional rights, and awarding plaintiff compensatory and punitive damages, to deter the defendants from repeating such misconduct, together with costs and attorney's fees.
2. Such other and further relief as this Court deems just and proper.
3. Plaintiff requests a jury trial.

Dated this 15<sup>th</sup> of October, 2004.



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LEONARD R. BERMAN, OSB# 96040  
Trial Attorney for Plaintiffs